

Application No. 10/808,162
Amendment Dated April 20, 2005
Reply to Office Action of January 28, 2005

REMARKS

Claims 1-19 remain in this application, with Claims 1, 4, 8 and 10 having been amended to expedite the prosecution of this application.

Claims 10-19 have been allowed. Claim 8 was indicated as being allowable if rewritten into independent form. By the subject amendment, Claim 8 has been so amended.

The only other independent claim in this application, namely, Claim 1, stands rejected under 35 U.S.C. 102(b) as being anticipated by Perez '995 as well as being obvious under 35 U.S.C. 103(a) over Rogers '988 et al. in view of Van Der Heijden '756.

By the subject amendment, Claim 1 has been amended to more clearly differentiate its subject matter over that of the cited prior art.

In particular, Claim 1 has been amended to call for the penetrating portion of the device to be generally centered with respect to the bottom wall portion of the package. This clearly distinguishes over Perez '995. That patent discloses an apparatus for penetrating plastic milk cartons having oil in them. The penetrating portion in the Perez reference is located off center. While this arrangement may be suitable for a relatively rigid container like the milk carton of the Perez patent, it may not be suitable for a flexible package like the subject invention. In this regard, it would seem that if a flexible package were penetrated close to the side wall of the package, the flowable material may not fully flow out of the package. This is may be particularly true with particulate flowable materials.

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With respect to the obviousness rejection of the Rogers et al. '988 patent in view of the Van Der Heijden '756 patent, it should be noted that Claim 1, as amended calls for the feature of the bottom wall portion of the flexible package including a peripheral portion constructed to control the propagation of the cut in the bottom wall portion that is formed by the penetrating portion of the receiver apparatus. This feature is not shown nor suggested in the Rogers et al. or Van Der Heijden references. Claims 2-7 and 9 depend either directly or indirectly upon Claim 1 and are hence patentable for reasons similar thereto.

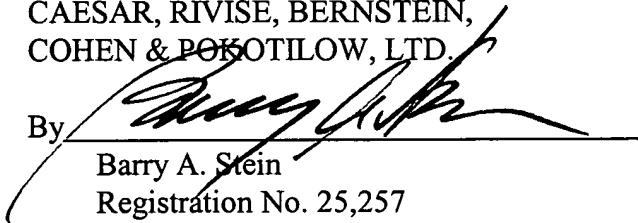
For at least the reasons set forth above, it is respectfully submitted that all of the claims now pending are allowable and that the application is in condition for allowance. Thus, favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

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